

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF: PETITION FOR RATE INCREASE BY LAKE MONROE SAILING ASSOCIATION)))))	ADMINISTRATIVE CAUSE NUMBER: 11-202P
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**REPORT OF HEARING OFFICER, INCLUDING FINDINGS
AND PROPOSAL TO THE NATURAL RESOURCES COMMISSION**

1. PETITION FOR RATE INCREASE BY LAKE MONROE SAILING ASSOCIATION

Steve Paul, on behalf of the Lake Monroe Sailing Association (*LMSA*) filed a petition on December 13, 2011 with the Division of State Parks and Reservoirs of the Department of Natural Resources (*Department*), which was forwarded to the Natural Resources Commission's Division of Hearings (*Division of Hearings*) seeking a "rate increase to be effective in 2013." LMSA offered clarifications related to its original petition on December 29, 2011 and January 14, 2012. LMSA also provided the Department and the Division of Hearings with the required justification and rates associated with comparable marinas on December 29, 2011. Relevant portions of LMSA's Petition are attached as Exhibit A and incorporated by reference.

2. SCOPE OF REVIEW

LMSA's petition is governed by a nonrule policy document approved by the Commission as Information Bulletin #20 (Second Amendment) (*IB #20*) (<http://www.ai.org/nrc/policy/marinara.html>), and published on the INDIANA REGISTER database website as 20091125-IR-312090919NRA. The Commission reflected that the purpose of the information bulletin was to implement an informal process for the review of ratemaking recommendations for resorts and marinas under lease with the Department.

In accordance with IB #20, LMSA submitted its petition to the Division of Hearings and the Department before January 1 of the year preceding the year in which the proposed rates, if approved, will be implemented. The Division of Hearings notified LMSA of the assigned administrative cause number, the identity of the hearing officer and provided the hearing officer's electronic mail address for inclusion in the notice required to be provided by LMSA to its slip and buoy renters.

Between February 13, 2012 and February 15, 2012, LMSA issued notice to slip and buoy renters containing the information required by IB #20, particularly that the LMSA patrons were provided the opportunity to offer comments and/or request a public hearing

regarding the rate increase petition. The notice provided specifically that comments and requests for public hearing were required to be received on or before March 15 at the hearing officer's electronic or US Postal Service address and advised that a public hearing would be conducted only if at least 10% of the slip and buoy renters requested a public hearing.

LMSA issued a total of 244 notifications; therefore, under IB #20, 24 slip and/or buoy renters would have been required to request a public hearing. The Division of Hearings received no correspondence relating to LMSA's petition and no requests for a public hearing.

Petitions, requests, documentation, exhibits, and other pertinent materials concerning the proposed rate request were available for the public to review at the lessee's business office, during normal business hours. A copy of this information was also available for inspection at the Department. In accordance with the existing lease agreements, the Department is to analyze comparable facilities to compare rates with those sought by the lessee. Information used in the analysis is to be available for inspection at the Department in Indianapolis.

The Commission, through IB #20, has delegated the responsibility of determining the lessee's request to the hearing officer, in consultation with the Department, for requests for rate increase of two percent (2%) or less when no public hearing is required. For sought rate increases over two percent (2%) the hearing officer is required to complete a review of the petition, the public comments, the Department's analysis of the provided comparables and in consultation with the Department prepare a written report for Commission consideration. In this instance, LMSA's petition seeks a rate increase of over two percent (2%). Therefore, submission of a report for consideration and ultimate determination by the Commission is required.

The report prepared by the hearing officer is to include written findings with respect to the requested rates and a proposal to the Commission with respect to recommendations to the U. S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the Department, and any other person who requests a copy. The hearing officer is to present the findings and recommendations to the Commission during a meeting to be held in May or July.

During that meeting, the Commission will either recommend approval of the rates, disapproval of the rates, or approval of rates in an amount less than requested by the lessee. Recommendation for favorable consideration of rates will not be withheld unless, in the opinion of the Commission, the proposed rates exceed fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

3. WRITTEN COMMENTS

The opportunity for the public to submit written comments extended until March 15, 2011. As previously stated the Division of Hearings received no requests for a public hearing and no comments related to LMSA's petition.

4. RECOMMENDATION BY THE DNR DIVISION OF PARKS AND RESERVOIRS

As anticipated in IB #20, Gary Miller (*Miller*), Assistant Director of Inns and Concessions for the Department, completed a comparative review of slip rates associated with LMSA's petition. Miller's analysis and spreadsheet are attached as Exhibit B and incorporated by reference.

Miller noted that LMSA is operated by a board of officers elected by the membership and that the board is required to approve all actions taken, including the submission of this petition. Miller's analysis of the rates of comparable marinas included those provided by LMSA as well as others identified by Miller. Miller concluded that the rates for which LMSA is seeking approval are "well within the standard rates charged by other marinas within the area."

5. FINDINGS AND PROPOSAL BY THE COMMISSION'S DIVISION OF HEARINGS

A. Findings

The scope of the review accorded by the Commission in Information Bulletin #20 is addressed to petitions for rate establishment or increase at marinas and related facilities on properties owned or leased by the Department. Although the Department may appropriately exercise whatever rights are provided in a ground lease with respect to marina facilities, as well as any other rights provided by law or equity, the scope of review for the purpose of setting rates at marinas and related facilities is determined by IB #20, which specifies that the lessee "shall include justification for the request along with comparable rates from other marinas." Information Bulletin #20 proceeds to specify that "the department will analyze comparable facilities to compare rates with those sought by the lessee."

The Commission's role in the setting of rates at marina facilities on Department leased or owned properties is to offer a recommendation regarding the appropriateness of the rates to the U.S. Army Corps of Engineers. In exercising its responsibility to offer a recommendation to the U.S. Army Corps of Engineers, the Commission has charged the appointed hearing officer with the responsibility to review the record, which includes the lessee's request and any supporting documentation, written comments provided by affected persons and the analysis by the Department in preparing a report and proposed recommendation for Commission consideration.

The Commission, through its adoption of IB #20, established as fundamental to a determination of the appropriateness of a proposed rate the consideration of rates charged by comparable marinas. The comparison therefore requires identification of marinas

providing services comparable to those provided by LMSA. That review reveals that the fees charged by LMSA are consistent with fees of other marinas within a reasonable geographic region.

It is also noted that LMSA's activities are controlled by a Board of officers elected by the membership, which provides for a level of review by LMSA before the Department, the Division of Hearings and ultimately the Commission is requested to act upon a petition for rate increase. Also important to mention is that LMSA last sought authorization to increase rates in 2006 and only in 2011 did LMSA actually act in imposing the full extent of the rates as previously authorized by the Commission. This latter action reflects a degree of responsibility and restraint not frequently observed with respect to petitions of this type.

LMSA notes that simple inflation and serious damage to docks by "spring ice break-up" in "two of the last three years" has made it necessary to seek the present rate increase. LMSA also notes that it has not historically "set money aside to replace capital assets that need periodic replacement. Part of the reason for the rate increase request is to allow LMSA to build up a capital replacement fund."

B. Proposal

The Hearing Officer recommends that the Commission approve the 6% rate increase as sought by LMSA in its petition and that the Commission recommend approval of this rate increase to the U.S. Army Corps of Engineers.

Dated: June 12, 2012

Sandra L. Jensen
Hearing Officer

Service List:

cc: Gary Miller, DNR, Division of State Parks and Reservoirs
Thomas Gruenenfelder, Lake Monroe Sailing Association

EXHIBIT A

Jensen, Sandra

From: Miller, Gary (DNR)
Sent: Tuesday, December 13, 2011 1:24 PM
To: Jensen, Sandra
Subject: FW: Request for Rate Increase in 2013 for LMSA (Lake Monroe Sailing Assoc.)
Attachments: lmsa_proposed_2013increases (1).xlsx; app11.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Administrative Cause
 Number: 11-202P

As referred from my last email. Gary

From: Steve Paul [mailto:steve.paul@sbccglobal.net]
Sent: Tuesday, December 13, 2011 1:10 PM
To: Miller, Gary (DNR)
Cc: rflynn@lakemonroesailing.com; Thomas Gruenfelder
Subject: Request for Rate Increase in 2013 for LMSA (Lake Monroe Sailing Assoc.)

FILED
DEC 13 2011
 NATURAL RESOURCES COMMISSION
 DIVISION OF HEARINGS

Dear Gary;

I've been asked to represent LMSA at this time in presenting a request for a rate increase to be effective in 2013. I've enclosed two attachments one a spreadsheet by Tom Gruenfelder projecting an overall increase in all fees. The increase is proposed but limited to a maximum of 6% as the chart shows increments from present fee schedule to + 3%, +5% and +6% if inacted per the DNR approval process.

My understanding from reading the new rate request rules is that the DNR will assess comparisons between "like" marinas within a reasonable geographic radius. (Note; we have used marinas from Iowa, Missouri and Canada in the past to find marinas similar to our purely sailing agenda).
 If that is not the process please let me know asap so I can offer those comparisons if needed.

Secondly is the 2011 fee schedule upon which the proposed increases will be based when approved. ALL fees will be subject to the same increase whatever that is required.

Thank you for your steadfast support and consideration in this request.

Yours truly,

Steve Paul
 past commodore LMSA

Jensen, Sandra

FILED

DEC 29 2011

NATURAL RESOURCES COMMISSION
DIVISION OF HEARINGS

From: Steve Paul [steve.paul@sboglobal.net]
Sent: Thursday, December 29, 2011 9:58 PM
To: Jensen, Sandra; Miller, Gary (DNR)
Cc: Thomas Gruenenfelder; Rita Roper-Flynn
Subject: Fw: LMSA Applicatin Continued cause # 11-202P
Attachments: LMSA.pdf; rate increase justification 2004format.doc; lmsa_proposed_2013increases (2).xlsx

Subject: LMSA Applicatin Continued cause # 11-202P

Dear Susan and Gary;

I've included several marinas in Indiana, Kentucky, Michigan and Ohio keeping the 400 mile radius as requested. Please consider that amenities are difficult to compare due to our association charter vs. State owned or private marina.

Enclosed as attachments are:

- (1) Justification written by Tom Gruenenfelder, Treasurer LMSA
- (2) Number or quantity of slip renters at LMSA
n=64 slips and 45 buoys as listed on the rate increase spreadsheet enclosed.
- (3) Comparison sheet with 4 + marinas listed.

I will also mail a package of the request which will have a Dec, 2011 postmark.

Many thanks for helping us with the new process.

Steve Paul
Past Commodore LMSA
601 Artist Dr.
Nashville, In 47448
317-691-0285

LMSA Rate Increase Justification

FILED
DEC 29 2011
NATURAL RESOURCES COMMISSION
DIVISION OF HEARINGS

There are three reasons why Lake Monroe Sailing Association (LMSA) is requesting permission from the Department of Natural Resources (DNR) to raise its fees up to 6%. The first is simply inflation. Although LMSA did raise most fees by 3% (Buoy fees were left unchanged.) in 2011, that increase was our first increase in over 7 years. Simply because of inflation, though, our expenses have been increasing over those years. To an extent, that increase has been offset by an increase in revenues, resulting from increases in usage. On balance, though, our net income (revenues minus expenses) has been declining over the past six years. As can be seen in the table below, net income in each of the years 2008 – 2010 is less than the lowest year between 2005 and 2007, reflecting a larger increase in expenses over that time than in revenues. (Final figures for 2011 are not yet available, but net income is estimated to be about \$23,000.) Maintaining a healthy net income is important, as it funds capital improvement meant to benefit LMSA membership and its youth training program.

Year	Revenue	Expenses (Not Including Capital Expenses)	Net Income
2005	195,438	166,033	29,405
2006	184,735	146,496	38,239
2007	190,734	159,279	31,455
2008	204,928	177,084	27,844
2009	202,554	178,679	23,875
2010	200,833	172,028	28,805

Second, in two of the last three years, LMSA has experienced extreme damage to its docks caused by the spring ice break-up. This damage requires expensive repairs. In 2011, LMSA spent over \$25,000 repairing damage to the docks caused by the ice break-up.

Third, in the past, LMSA has not systematically set money aside to replace capital assets that need periodic replacement. Part of the reason for the rate increase request is to allow LMSA to build up a capital replacement fund. Docks (LMSA has 6 of them.) are LMSA's largest capital asset. They have a limited lifespan. LMSA needed to borrow money to finance its last two dock replacements. Currently, one additional dock is in need of replacement, and a second is close. A partial list of LMSA capital assets that need to be periodically replaced or upgraded include

- a) Docks
- b) Youth Training Boats
- c) Power Boats used to support youth training
- d) Motors for those power boats
- e) Kubota Tractor, used in maintaining the grounds and the facility
- f) Main Shelter and other shelters
- g) Playground equipment

In addition to maintaining these capital assets, LMSA also wishes the ability to undertake general improvements to the facility. Examples of such improvements are installing reliable hoists to support small boat sailors, accessibility improvements to the grounds to support the physically challenged, and improvements to the bath house.

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Prepared on December 17, 2011 by:
Tom Gruenfelder
Lake Monroe Sailing Association Treasurer
812.824.1082
gruenfelder@bluemarble.net

Jensen, Sandra

From: Steve Paul [steve.paul@sbcglobal.net]
Sent: Saturday, January 14, 2012 9:32 PM
To: Jensen, Sandra; Miller, Gary (DNR)
Cc: rita; Thomas Gruenfelder
Subject: Re: LMSA Rate Petition
Attachments: lmsa_proposed_2013increases.xlsx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Gary and Sandra;

Tom Gruenfelder has completed his chart for our proposed rate increase including the storage fees as you requested. Sorry to have omitted these it was not intentional. I'm attaching a new excel sheet for your review I hope this meets your needs.

Thanks again for your assistance,

Steve Paul

From: "Jensen, Sandra" <SJensen@nrc.IN.gov>
To: Steve Paul <steve.paul@sbcglobal.net>
Cc: "Miller, Gary (DNR)" <GMiller@dnr.IN.gov>
Sent: Friday, January 6, 2012 9:09 AM
Subject: LMSA Rate Petition

Steve,

In comparing your current petition to your last rate increase approval Gary noticed that in 2006 you had separate rates for winter dry storage and those rates are not included on this petition. We want to make certain that this was not an oversight. If you need to add those rates, please go ahead and do so and make sure you include that addition on the notices issued to your slip holders.

If you no longer have decreased rates for winter dry storage and now simply charge "in season" rates for all dry storage please submit some type of short explanation.

Thank you,
 Sandra

*Sandra L. Jensen
 Administrative Law Judge
 Natural Resources Commission
 Division of Hearings
 Indiana Government Center North, Room N501
 100 North Senate Avenue
 Indianapolis, Indiana 46204*

*Telephone: 317/232-4229
 Fax: 317/233-2977*

LMSA Proposed 6% Rate Increase for 2013 Including storage rates.

Item	2011	Projected 2013 Fees	
			6%
Membership: Single or Student	\$25		\$27
Couple Membership	\$40		\$42
Single Parent Family Membershi	\$30		\$32
Family Membership	\$50		\$53
Board Boat: 1st Boat	\$85		\$90
Board Boat: 2nd Boat	\$75		\$80
Dry Storage < 20'	\$325		\$345
Dry Storage 20-26'	\$425		\$451
Dry Storage > 26'	\$500		\$530
Buoy: Standard	\$795		\$843
Buoy: Heavy Duty	\$895		\$949
A-Dock Slips			
24 x 12	\$1,335		\$1,415
26 x 12	\$1,440		\$1,526
30 x 14	\$1,540		\$1,632
32 x 14	\$1,645		\$1,744
34 x 14	\$1,750		\$1,855
B, C, D, and North Bay Slips			
22 x 12	\$1,080		\$1,143
24 x 12	\$1,130		\$1,198
26 x 12	\$1,235		\$1,303
Facility Use Only	\$80		\$85
Trailer parking (sailing season)	\$75		\$80
Winter Storage			
Trailer or Cradle Only (no boa	\$70		\$74
Boat <= 20'	\$100		\$106
Boat > 20', <=26'	\$140		\$148
Boat > 26', <=30'	\$170		\$180
Boat > 30', <=34'	\$180		\$191
Boat > 34'	\$190		\$201

EXHIBIT B



Mitchell E. Daniels, Jr., Governor
Robert E. Carter, Jr., Director
Division of State Parks and Reservoirs
402 W. Washington Street
Room W298
Indianapolis, IN 46204
Phone (317) 232-4124
Toll-free (800) 622-4931
Fax (317) 232-4132
www.in.gov/dnr/

April 19, 2012

To: Sandra Jensen, Administrative Law Judge
Natural Resources Commission
100 N Senate Ave, Rm N501
Indianapolis, IN 46204

Fr: Gary Miller, Assistant Director
Indiana State Parks and Reservoirs
402 W. Washington St, RM W298
Indianapolis, IN 46204

Re: Lake Monroe Sailing Assoc. fee increase request---Cause # 11202 P

I have completed the review of the comparable rates for Lake Monroe Sailing Association in regard to their request for a rate increase for recreational season 2013. Attached is a spreadsheet modified from the one submitted by the association. The modifications include additional comp locations and one correction to their submitted worksheet. They have listed Kent's Harbour Marina located in Kentucky. This marina is located on Brookville Lake near Brookville IN.

As stated on their worksheet, it is a little difficult to find comps that match up entirely with their location and services. Lake Monroe Sailing Assoc. is a member organization that services the sail boating public. The additional comps that have been included are ones that are found in Indiana; and Eagle Creek Yacht Club in Indianapolis was included, which is also a member organization serving the sailing public.

The membership of Lake Monroe Sailing Association elects a board of officers, and all matters are handled through this board. Before a request is sent to the Commission for approval, it has already been voted on by the board. As can be seen from the comps submitted and by the additional comp set, Lake Monroe Sailing Association is well within the standard rates charged by other marinas within the area. The Division of State Parks and Reservoirs supports the request as submitted.

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LMSA Fee schedule Item	Proposed		Hannah Creek Brookville, In	Light House Landing Private	Hammond Port Auth. City Owned	Four Winds Bloomington Private	Kents Harbour Ky * Brookville Private	Mich City Port Auth. Indiana,
	2011	Fee 6%						
Memberships: Single or Student								
Couple Membership	\$25	\$27						
Single Parent Family Member	\$40	\$42						
Family Membership	\$30	\$32						
	\$50	\$53						
Board Boat: 1st Boat	\$85	\$90						
Board Boat: 2nd Boat	\$75	\$80						
Dry Storage < 20'	\$325	\$345						
Dry Storage 20-26'	\$425	\$451						
Dry Storage > 26'	\$500	\$530						
Buoy: Standard	\$795	\$843						
Buoy: Heavy Duty	\$895	\$949						
LMSA Slips = 64								
LMSA Buoys = 45								
A-Dock Slips								
24 x 12	\$1,335	\$1,415		\$1,050			\$1,595	\$1,670
26 x 12	\$1,440	\$1,526		\$1,200	\$2,337	\$2,200	\$1,675	
30 x 14	\$1,540	\$1,632		\$1,550	\$2,337	\$3,700		\$2,125
32 x 14	\$1,645	\$1,744		\$1,600			\$2,525	
34 x 14	\$1,750	\$1,855		\$1,700	\$2,867	\$4,000	\$2,865	\$2,560
B, C, D, and North Bay Slips								
22 x 12	\$1,080	\$1,145	10x20 \$695					
24 x 12	\$1,130	\$1,198	14x20 \$775	\$1,050				
26 x 12	\$1,235	\$1,309	14x30 \$935					
Facility Use Only	\$80	\$85						
Trailer parking (sailing season)	\$75	\$80		\$11.25 month				

LMSA Fee schedule Item	Proposed Fee 2011 6%		Eagle Creek Yacht Club Indianapolis		Hoosier Hills Marina Patoka Lake		Patoka Lake Marina Patoka Lake		Quakertown Marina Brookville		Lake Monroe Marina Lake Monroe	
	2011	Fee 6%										
Memberships: Single or Student	\$25	\$27										
Couple Membership	\$40	\$42										
Single Parent Family Membership	\$30	\$32										
Family Membership	\$50	\$53		\$445								
Board Boat: 1st Boat	\$85	\$90										
Board Boat: 2nd Boat	\$75	\$80										
Dry Storage < 20'	\$325	\$345					\$250					
Dry Storage 20-26'	\$425	\$451					\$450					
Dry Storage > 26'	\$500	\$530										
Buoy: Standard	\$795	\$843					\$400	\$490				
Buoy: Heavy Duty	\$895	\$949					\$515					
LMSA Slips = 64												
LMSA Buoys = 45												
A-Dock Slips												
24 x 12	\$1,335	\$1,415					\$950					
26 x 12	\$1,440	\$1,526										
30 x 14	\$1,540	\$1,632					\$1,300	\$1,590				
32 x 14	\$1,645	\$1,744										
34 x 14	\$1,750	\$1,855					36' 1945	\$2,550				\$2,500
B, C, D, and North Bay Slips												
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